

EXHIBIT E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

THE KROGER CO.,	:	Case No.: C-1-02-439
	:	
Plaintiff,	:	Beckwith, J.
	:	
	:	
v.	:	<u>AFFIDAVIT OF EDWARD N.</u>
	:	<u>WALDVOGEL</u>
	:	
MALEASE FOODS CORP.,	:	
	:	
Defendant.	:	
State of Ohio	:	
	:	ss
County of Hamilton	:	

I, Edward N. Waldvogel, being first duly cautioned and sworn, say that I am Vice President—Capital Management of The Kroger Co. (“Kroger”) and state the following:


- (1) The June 29, 2001 Purchase Agreement between Kroger and Balkhouse, attached as Exhibit I to Kroger’s Motion for Summary Judgment and included in the Memorandum Regarding Supersedeas Bond as Exhibit B is an authentic business document of Kroger.
- (2) The April 12, 2002 Agreement between Kroger and HEB Grocery Company, LP, (“HEB”) attached as Exhibit C to the Memorandum Regarding Supersedeas Bond is an authentic business document of Kroger.

Further, affiant sayeth naught.



Edward N. Waldvogel

Sworn to in and subscribed in before me, a Notary Public, this 3rd day of December, 2004.



Notary Public

BRENDA R. ANDES
Notary Public, State of Ohio
My Commission Expires June 21, 2008